

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

FRED PALOSAARI,

Plaintiff,

v.

Case No. 2:11-cv-351
HON. R. ALLAN EDGAR

HOUGHTON COUNTY
SHERIFF'S DEPARTMENT, et al.,

Defendant(s).

REPORT AND RECOMMENDATION

Plaintiff Fred Palosaari filed a complaint on behalf of himself, Amy Bailey, and the Dan Bailey Estate against the Houghton County Sheriff's Department and Deputy Mark Butkovich for the wrongful death of Dan Bailey. Defendants have filed a motion to dismiss. Plaintiff did not file a responsive pleading. A hearing was set for August 15, 2012. Plaintiff did not appear at the hearing.

Accordingly, as stated on the record, it is recommended that plaintiff's complaint be dismissed for failure to prosecute this action, for failure to attend the court hearing, and because plaintiff Fred Palosaari, the only plaintiff that signed the complaint, cannot represent Amy Bailey or the estate of Dan Bailey. *Shenkman v. Bragman*, 261 Mich. App. 412 (Mich. App. 2004). Further, the complaint fails to state an actionable claim on behalf of plaintiff Fred Palosaari. Fred Palossari never pleaded his relationship with the deceased or provided any basis for relief against defendants.

Accordingly, it is recommended that defendants' motion to dismiss (Docket #13) be granted and this case be dismissed in its entirety.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY

UNITED STATES MAGISTRATE JUDGE

Dated: August 16, 2012